

126688/0037
(MWS:DLS)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **Douglas G. Evans, et al.**

Art Unit: **3731**

Application No.: **10/633,254**

Examiner: **Not Yet Known**

Filed: **August 1, 2003**

For: **SELF-ANCHORING SLING AND INTRODUCER SYSTEM**

Date: **April 7, 2004**

**PETITION FOR EXTENSION OF TIME AND
REQUEST FOR WAIVER OF EXTENSION FEE**

Mail Stop Missing Parts
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants petition the Assistant Commissioner for Patents either (1) to extend the time for response to the Notice to File Missing Parts dated October 31, 2003, for four months from December 31, 2003, to and including April 7, 2004, or (2) to deem that Notice to File Missing Parts as having been remailed on April 1, 2004.

Applicants also respectfully request that the fee under 37 C.F.R. § 1.17(a)(4) (\$1480.00) be waived on grounds that the Notice to Missing Parts was never received by Applicants' undersigned attorneys, as explained below.

This application was presented without an executed inventors' Declaration. Accordingly, the undersigned expected to receive a Notice to File Missing Parts within several months of August 1, 2003, filing date.

However, as of March 31, 2004, no such Notice to File Missing Parts had been received by the undersigned. As proof that the Notice to File Missing Parts had been received,

the undersigned submits herewith the Declaration of Lorraine Buschoff, a paralegal employed by Applicants' attorneys and who is responsible for the docketing of incoming official Patent and Trademark Office patent-related correspondence.

As explained in her Declaration, Ms. Buschoff's routine practice is to docket all incoming official Patent and Trademark Office patent-related correspondence using an electronic docketing system (PATTSY). That docketing system does not reflect receipt in this application of a Notice to File Missing Parts.

Ms. Buschoff's Declaration establishes in the manner prescribed by MPEP § 711.03(c)(II)¹ that the undersigned has not received the Notice to File Missing Parts.

To insure timely prosecution, the undersigned inquired of the Office of Initial Patent Examination ("OIPE") when would the Notice to File Missing Parts be mailed. On April 1, 2004, the undersigned was advised by OIPE that the Notice to File Missing Parts had been mailed on October 31, 2003 (however, as explained above, that Notice was never received). As a convenience, OIPE sent the undersigned a copy of the October 31 Notice to File Missing Parts by facsimile.

In order to expedite prosecution, the undersigned is responding herewith to the Notice to File Missing Parts in the accompanying Response to Notice to File Missing Parts, instead of only requesting remailing of the Notice to File Missing Parts.

Since the period for response to the Notice ended on December 31, 2003, a Petition for four months' extension of time and associated fee of \$1480 are required to maintain the pendency of this application. However, Applicants submit and request that, because the non-

¹ entitled "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action".

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receipt of the Notice to File Missing Parts did not involve any action or omission by the undersigned, the extension fee and any other associated petition fee should be waived.

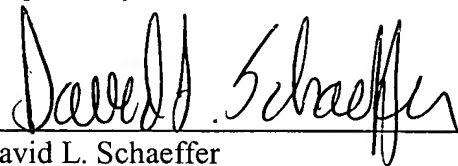
Alternatively, Applicants respectfully request that the October 31, 2003 Notice be deemed withdrawn and remailed on April 1, 2004, in which case the accompanying Response to Notice to File Missing Parts is timely filed.

Although no fee is believed to be due in connection with this Petition and Request because the Petition and Request is necessitated by action of the Patent and Trademark Office, the Director is nevertheless authorized to charge any deficiency in or credit any overpayment of fees to Deposit Account No. 19-4709.

Favorable consideration and granting of all points raised in this Petition and Request are respectfully requested.

Applicants respectfully submit that this application is in condition for allowance. Early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "David L. Schaeffer", is written over a horizontal line.

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